

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 60 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DHANJIBHAI S MAKWANA

Versus

COMMISSIONER

Appearance:

MR AK CLERK for Petitioner

MR JR NANAVATI for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/02/98

ORAL JUDGMENT

Heard the learned counsel for the parties.

2. The petitioner, in this Special Civil Application, prayed for directions to the respondents to promote him as a Fitter on or before 15.3.84 with all consequential benefits.

3. Grievance has been made by petitioner that his junior, Mr. Hardeosinh Dolubhai is promoted as a Fitter vide Resolution dated 15.3.84, which caused injustice to him. This petition has been filed by petitioner before this Court on 19th August 1985 but the petitioner has not taken any steps to remove the office objections and it has been registered only in the year 1987. The petitioner has come up before this Court with a prayer for giving him promotion to the post of Fitter from 15.3.84, i.e. after about one year and five months from the date on which his junior has been promoted. The petitioner has not given out any explanation, good, bad or indifferent for this delay, except saying that he made many a times complaints to the respondent but the respondent has not replied the same. He has not produced any document on record, i.e. copies of the complaint alleged to have been made to the respondent. The petitioner further admitted as a fact that he approached to the Union and the Union has raised industrial dispute on his behalf, but ultimately the Government has declined to make reference of the same to the Labour Court or Industrial Tribunal on 26.3.85. When the reference has not been made by the Government the Union should have come up before this Court for making reference. That action has also not been taken. Be that as it may, the learned counsel for the petitioner admitted as a fact that the petitioner has been given promotion in the year 1987 on a different post, but it is not the case of learned counsel for the petitioner that that post on which the petitioner has been given promotion is in any manner inferior to the post of Fitter. So it is clear that the petitioner has in fact not taken any action in this Special Civil Application after filing of the same till he got promotion. So he pocketed promotion first and then has pressed for this Special Civil Application by taking necessary steps to remove office objections. This conduct of the petitioner also deserves serious consideration. The learned counsel for the petitioner, on being asked by the Court, has submitted that he is no knowledge whether there are more than one posts of Fitter in the respondent-Corporation. So in case the relief as prayed for in the Special Civil Application is granted, it will adversely affect the promotion which has been given to the other person. That person has not been impleaded as a party in this Special Civil Application. In absence of that person before this Court, the relief as prayed for by the petitioner cannot be granted. Moreover, the petitioner has already been promoted to the next higher post and otherwise also, now I do not find it to be a fit case where any relief has to be granted and that too in absence of the persons who has been promoted

on 15th March 1984.

4. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

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(sunil)